

HOUSE BILL No. 1466

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.2; IC 5-10.3-6; IC 21-38-3; IC 21-38-7-3.

Synopsis: Winding up plan participation. Provides that an employer that is eligible but not required to participate in the public employees' retirement fund (PERF) must pay the employer's share of the unfunded liability attributable to the employer's current and former employees if the employer withdraws from PERF or otherwise phases out its participation in PERF. Provides that an entity that is eligible but not required to participate in the public employees' retirement fund and that wishes to offer a retirement plan to an employee must establish or participate in a defined contribution plan.

Effective: Upon passage.

Carbaugh, Burton, Forestal

January 14, 2015, read first time and referred to Committee on Employment, Labor and Pensions.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1466

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10.2-1-4.3 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 4.3. As used in this article,**
4 **"miscellaneous participating entity" means an entity that**
5 **participates in the public employees' retirement fund, except:**
6 **(1) the executive (including the administrative), legislative, or**
7 **judicial branches of the state; or**
8 **(2) a political subdivision (as defined in IC 5-10.3-1-6).**
9 SECTION 2. IC 5-10.2-2-20 IS ADDED TO THE INDIANA CODE
10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: **Sec. 20. (a) As used in this section,**
12 **"withdrawing participating entity" means a miscellaneous**
13 **participating entity that takes an action described in subsection (b).**
14 **(b) Subject to the provisions of this section, a miscellaneous**
15 **participating entity may do the following:**



(1) Stop its participation in the fund and withdraw all of the miscellaneous participating entity's employees from participation in the fund.

(2) Withdraw a departmental, an occupational, or other definable classification of employees from participation in the fund.

(3) Stop the miscellaneous participating entity's participation in the fund by:

(A) selling all of the miscellaneous participating entity's assets; or

(B) ceasing to exist.

(c) The withdrawal of a miscellaneous participating entity's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all the following have occurred:

(1) The withdrawing participating entity has provided written notice of the following to the board:

(A) The withdrawing participating entity's intent to cease participation.

(B) The names of the withdrawing participating entity's current employees and former employees as of the date on which the notice is provided.

(2) The expiration of:

(A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing participating entity that sells all of the withdrawing participating entity's assets or that ceases to exist; or

(B) a two (2) year period following the filing of the notice with the board, for all other withdrawing participating entities.

(3) The withdrawing participating entity takes all actions required in subsections (d) through (g).

(d) With respect to retired members who have creditable service with the withdrawing participating entity, the withdrawing participating entity must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members. The contribution by the withdrawing participating entity must be made in a lump sum or in a series of payments over a term determined by the board that does not exceed thirty (30) years.

(e) A member who is an employee of the miscellaneous



participating entity as of the date of the notice under subsection (c) is vested in the pension portion of the member's retirement benefit. The withdrawing participating entity must contribute to the fund the amount the board determines is necessary to fund fully the vested benefit. The contribution by the withdrawing participating entity must be made in a lump sum or in a series of payments over a term determined by the board that does not exceed thirty (30) years.

(f) A member who is covered by subsection (e) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has fewer than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of service.

(g) With respect to members of the fund who have creditable service with the withdrawing participating entity and who are not employees as of the date of the notice under subsection (c), the withdrawing participating entity must contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the withdrawing participating entity. The contribution by the withdrawing participating entity must be made in a lump sum or in a series of payments over a term determined by the board that does not exceed thirty (30) years.

SECTION 3. IC 5-10.2-2-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) This section applies to a miscellaneous participating entity that takes any of the following actions on or after December 31, 2010:

- (1) The miscellaneous participating entity determines a date:
 - (A) before which a departmental, occupational, or other definable classification of employees is required or allowed to participate in the fund; and
 - (B) on or after which the departmental, occupational, or other definable classification of employees is not allowed to participate in the fund.
- (2) The miscellaneous participating entity determines a date:
 - (A) before which a departmental, occupational, or other definable classification of employees is required to participate in the fund; and
 - (B) on or after which the departmental, occupational, or other definable classification of employees is allowed to choose to participate in a retirement plan other than the



- 1 fund.
- 2 (3) The miscellaneous participating entity modifies its
- 3 employee classification scheme as of a specified date in such
- 4 a way that there is at least one (1) position that:
- 5 (A) is covered by the fund before the specified date; and
- 6 (B) is not covered by the fund after the specified date.
- 7 (b) The following definitions apply throughout this section:
- 8 (1) "Freeze" or "freeze participation in the fund" means to
- 9 take an action described in subsection (a).
- 10 (2) "Freezing participating entity" means a miscellaneous
- 11 participating entity that freezes its participation in the fund.
- 12 (c) A miscellaneous participating entity that freezes its
- 13 participation in the fund after December 31, 2010, shall do the
- 14 following:
- 15 (1) Provide written notice of the following to the board:
- 16 (A) The action that was taken under subsection (a) by the
- 17 freezing participating entity.
- 18 (B) The effective date of the action taken under subsection
- 19 (a).
- 20 (C) The employee classifications that:
- 21 (i) are covered by the fund before the effective date of
- 22 the freeze; and
- 23 (ii) will not be covered by the fund on or after the
- 24 effective date of the freeze.
- 25 (D) The names of the freezing participating entity's current
- 26 employees and former employees as of the date on which
- 27 the notice is provided.
- 28 (2) Comply with subsections (d) through (f).
- 29 (d) With respect to retired members who have creditable service
- 30 with the freezing participating entity, the freezing participating
- 31 entity shall contribute to the fund any additional amounts that the
- 32 board determines are necessary to provide for reserves with
- 33 sufficient assets to pay all future benefits from the fund to those
- 34 retired members. The contribution by the freezing participating
- 35 entity must be made in a lump sum or in a series of payments over
- 36 a term determined by the board that does not exceed thirty (30)
- 37 years.
- 38 (e) With respect to members of the fund who have creditable
- 39 service with the freezing participating entity and who are not
- 40 employees as of the effective date on which the miscellaneous
- 41 participating entity freezes its participation in the fund, the
- 42 freezing participating entity shall contribute the amount that the



board determines is necessary to fund fully the service for those members that is attributable to service with the freezing participating entity. The contribution by the freezing participating entity must be made in a lump sum or in a series of payments over a term determined by the board that does not exceed thirty (30) years.

(f) With respect to members of the fund:

(1) who are employees of the freezing participating entity on the date of the notice under subsection (c); or

(2) who become employees of the freezing participating entity after the date of the notice under subsection (c);
the freezing participating entity shall continue to contribute the amounts required under section 11 of this chapter for those employees for the duration of their employment with the freezing participating entity.

(g) The Indiana public retirement system may do any of the following to determine a miscellaneous participating entity's compliance with this section:

(1) Require reports from the miscellaneous participating entity.

(2) Audit the miscellaneous participating entity.

SECTION 4. IC 5-10.2-2-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. If:

(1) a miscellaneous participating entity:

(A) withdraws from the fund under section 20 of this chapter; or

(B) freezes its participation in the fund as described in section 21 of this chapter; and

(2) the miscellaneous participating entity chooses thereafter to offer a retirement plan to its employees;

the miscellaneous participating entity shall establish or participate in a defined contribution plan.

SECTION 5. IC 5-10.3-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) As used in this section, "withdrawing political subdivision" means a political subdivision that takes an action described in subsection (b).

(b) Subject to the provisions of this section, a political subdivision may do the following:

(1) Stop its participation in the fund and withdraw all of the political subdivision's employees from participation in the fund.

(2) Withdraw a departmental, an occupational, or other definable



classification of employees from participation in the fund.

(3) Stop the political subdivision's participation in the fund by:

(A) selling all of the political subdivision's assets; or

(B) ceasing to exist as a political subdivision.

(c) The withdrawal of a political subdivision's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all of the following have occurred:

(1) The withdrawing political subdivision has provided written notice of the following to the board:

(A) The withdrawing political subdivision's intent to cease participation.

(B) The names of the withdrawing political subdivision's current employees and former employees as of the date on which the notice is provided.

(2) The expiration of:

(A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing political subdivision that sells all of the withdrawing political subdivision's assets or that ceases to exist as a political subdivision; or

(B) a two (2) year period following the filing of the notice with the board, for all other withdrawing political subdivisions.

(3) The withdrawing political subdivision takes all actions required in subsections (d) through ~~(h)~~ (g).

(d) With respect to retired members who have creditable service with the withdrawing political subdivision, the withdrawing political subdivision must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments **over a term** determined by the board **that does not exceed thirty (30) years**.

(e) A member who is an employee of the political subdivision as of the date of the notice under subsection (c) is vested in the pension portion of the member's retirement benefit. The withdrawing political subdivision must contribute to the fund the amount the board determines is necessary to fund fully the vested benefit. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments **over a term** determined by the board **that does not exceed thirty (30) years**.

(f) A member who is covered by subsection (e) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even



1 if the member has fewer than ten (10) years of service. The benefit for
 2 the member shall be computed under IC 5-10.2-4-4 using the member's
 3 actual years of service.

4 (g) With respect to members of the fund who have creditable service
 5 with the withdrawing political subdivision and who are not employees
 6 as of the date of the notice under subsection (c), the withdrawing
 7 political subdivision must contribute the amount that the board
 8 determines is necessary to fund fully the service for those members that
 9 is attributable to service with the withdrawing political subdivision.
 10 The contribution by the withdrawing political subdivision must be
 11 made in a lump sum or in a series of payments **over a term** determined
 12 by the board **that does not exceed thirty (30) years**.

13 ~~(h) The board shall evaluate each withdrawal under this section to~~
 14 ~~determine if the withdrawal affects the fund's compliance with Section~~
 15 ~~401(a)(4) of the Internal Revenue Code of 1954, as in effect on~~
 16 ~~September 1, 1974. The board may deny a political subdivision~~
 17 ~~permission to withdraw if the denial is necessary to achieve compliance~~
 18 ~~with Section 401(a)(4) of the Internal Revenue Code of 1954, as in~~
 19 ~~effect on September 1, 1974.~~

20 SECTION 6. IC 5-10.3-6-8.2 IS ADDED TO THE INDIANA
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE UPON PASSAGE]: **Sec. 8.2. (a) The following**
 23 **definitions apply throughout this section:**

24 (1) "Freeze" or "freeze participation in the fund" means to
 25 take an action described under subsection (b).

26 (2) "Freezing political subdivision" means a political
 27 subdivision that freezes its participation in the fund.

28 (b) Subject to the provisions of this section, a political
 29 subdivision may do the following:

30 (1) Determine a date:

31 (A) before which a departmental, occupational, or other
 32 definable classification of employees is eligible to
 33 participate in the fund; and

34 (B) on or after which the departmental, occupational, or
 35 other definable classification of employees is not eligible to
 36 participate in the fund.

37 (2) Determine a date:

38 (A) before which a departmental, occupational, or other
 39 definable classification of employees is required to
 40 participate in the fund; and

41 (B) on or after which the departmental, occupational, or
 42 other definable classification of employees is allowed to



- 1 choose whether to participate in a retirement benefit
- 2 system other than the fund.
- 3 (3) Modify the political subdivision's employee classification
- 4 scheme as of a specified date in such a way that there is at
- 5 least one (1) position that:
- 6 (A) is covered by the fund before the specified date; and
- 7 (B) is not covered by the fund on or after the specified date.
- 8 (c) A political subdivision that freezes its participation in the
- 9 fund after December 31, 2010, shall do the following:
- 10 (1) Provide written notice of the following to the board:
- 11 (A) The action that was taken under subsection (b) by the
- 12 freezing political subdivision.
- 13 (B) The effective date of the action taken under subsection
- 14 (b).
- 15 (C) The employee classifications that:
- 16 (i) are covered by the fund before the effective date of
- 17 the freeze; and
- 18 (ii) will not be covered by the fund on or after the
- 19 effective date of the freeze.
- 20 (D) The names of the freezing political subdivision's
- 21 current employees and former employees as of the date on
- 22 which the notice is provided; and
- 23 (2) Comply with subsections (d) through (f).
- 24 (d) With respect to retired members who have creditable service
- 25 with the freezing political subdivision, the freezing political
- 26 subdivision shall contribute to the fund any additional amounts
- 27 that the board determines are necessary to provide for reserves
- 28 with sufficient assets to pay all future benefits from the fund to
- 29 those retired members. The contribution by the freezing political
- 30 subdivision must be made in a lump sum or in a series of payments
- 31 over a term determined by the board that does not exceed thirty
- 32 (30) years.
- 33 (e) With respect to members of the fund who have creditable
- 34 service with the freezing political subdivision and who are not
- 35 employees as of the effective date on which the political subdivision
- 36 freezes its participation in the fund, the freezing political
- 37 subdivision shall contribute the amount that the board determines
- 38 is necessary to fund fully the service for those members that is
- 39 attributable to service with the freezing political subdivision. The
- 40 contribution by the freezing political subdivision must be made in
- 41 a lump sum or in a series of payments over a term determined by
- 42 the board that does not exceed thirty (30) years.



(f) With respect to members of the fund:

(1) who are employees of the freezing political subdivision as of the date of the notice under subsection (c); or

(2) who become employees of the freezing political subdivision after the date of the notice under subsection (c);

the freezing political subdivision shall continue to contribute the amounts required under IC 5-10.2-2-11 for those employees for the duration of their employment with the freezing political subdivision.

(g) The Indiana public retirement system may do any of the following to determine a political subdivision's compliance with this section:

(1) Require reports from the political subdivision.

(2) Audit the political subdivision.

SECTION 7. IC 5-10.3-6-8.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.3. If:**

(1) a political subdivision:

(A) withdraws from the fund under section 8 of this chapter; or

(B) freezes its participation in the fund as described in section 8.2 of this chapter; and

(2) the political subdivision chooses thereafter to offer a retirement plan to its employees;

the political subdivision shall establish or participate in a defined contribution plan.

SECTION 8. IC 21-38-3-3, AS AMENDED BY P.L.3-2008, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The board of trustees of Ball State University may define the duties and provide compensation for faculty and staff of the university. **Subject to IC 5-10.2-2-20 and IC 5-10.2-2-21**, the authority of the board under this section includes the authority to establish fringe benefit programs, including retirement benefits, that may be supplemental to, or instead of, state retirement programs for teachers or other public employees as authorized by law.

SECTION 9. IC 21-38-3-4, AS ADDED BY P.L.2-2007, SECTION 279, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The board of trustees of Indiana University may:

(1) elect a president, the professors, and other officers for Indiana University as necessary and prescribe the duties and salaries of those positions;

(2) employ other persons as necessary; and



(3) **subject to IC 5-10.2-2-20 and IC 5-10.2-2-21**, establish programs of fringe benefits and retirement benefits for Indiana University's officers, faculty, and other employees that may be supplemental to, or instead of, state retirement programs established by statute for public employees.

SECTION 10. IC 21-38-3-5, AS ADDED BY P.L.2-2007, SECTION 279, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The board of trustees of Indiana State University may prescribe the duties and provide the compensation, including retirement and other benefits, of the faculty, administration, and employees of Indiana State University. **The authorization under this section to provide retirement benefits to the faculty, administration, and employees of Indiana State University is subject to IC 5-10.2-2-20 and IC 5-10.2-2-21.**

SECTION 11. IC 21-38-3-7, AS ADDED BY P.L.169-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The board of trustees of Ivy Tech Community College may do the following:

- (1) Develop a statewide salary structure and classification system, including provisions for employee group insurance, employee benefits, and personnel policies.
- (2) Employ the chief administrator of each region.
- (3) Authorize the chief administrator of a region to employ the necessary personnel for the region, determine qualifications for positions, and fix compensation for positions in accordance with statewide policies established under subdivision (1).

The authorizations under this section to provide for employee benefits and compensation are subject to IC 5-10.2-2-20 and IC 5-10.2-2-21.

SECTION 12. IC 21-38-3-8, AS ADDED BY P.L.2-2007, SECTION 279, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The board of trustees of Purdue University may elect all professors and teachers, removable at the board's pleasure; fix and regulate compensations, including programs of fringe benefits and retirement benefits that may be supplemental to or in lieu of state retirement programs established by statute for public employees. **The authorization to provide retirement benefits under this section is subject to IC 5-10.2-2-20 and IC 5-10.2-2-21.**

SECTION 13. IC 21-38-3-9, AS ADDED BY P.L.2-2007, SECTION 279, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The University of Southern



1 Indiana may employ a faculty and staff for the university, define the
2 duties of the faculty and staff, and provide compensation for the faculty
3 and staff, including a program of fringe benefits and a program of
4 retirement benefits that may supplement or supersede the state
5 retirement programs established by statute for teachers or other public
6 employees. **The authorization to provide retirement benefits under
7 this section is subject to IC 5-10.2-2-20 and IC 5-10.2-2-21.**

8 SECTION 14. IC 21-38-3-11, AS ADDED BY P.L.2-2007,
9 SECTION 279, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE UPON PASSAGE]: Sec. 11. The board of trustees of
11 Vincennes University may elect and appoint persons of suitable
12 learning and talents to be president and professors of Vincennes
13 University and, **subject to IC 5-10.2-2-20 and IC 5-10.2-2-21**, agree
14 with them for their salaries and emoluments. The board of trustees shall
15 appoint a president to preside over and govern Vincennes University.

16 SECTION 15. IC 21-38-7-3, AS ADDED BY P.L.2-2007,
17 SECTION 279, IS AMENDED TO READ AS FOLLOWS
18 [EFFECTIVE UPON PASSAGE]: Sec. 3. **Subject to IC 5-10.2-2-20
19 and IC 5-10.2-2-21**, a state educational institution may establish a
20 retirement benefit system for the employees of the state educational
21 institution.

22 SECTION 16. **An emergency is declared for this act.**

